

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HOOPA VALLEY TRIBE,

Plaintiff,

v.

Case No. 1:20-cv-01814-JLT-EPG

UNITED STATES BUREAU OF
RECLAMATION; DEBRA ANNE
HAALAND, in her official capacity as
Secretary of the Interior; MARIA
CAMILLE CALIMLIM TOUTON, in her
official capacity as Commissioner of the
United States Bureau of Reclamation;
ERNEST A. CONANT, in his official
capacity as U.S. Bureau of Reclamation
California-Great Basin Regional Director;
and UNITED STATES DEPARTMENT OF
THE INTERIOR

Defendants.

DECLARATION

I, Michael Dixon, declare as follows:

1. I am currently the Executive Director of the Trinity River Restoration Program ("Restoration Program"), where I lead a partnership of six agencies and two tribes in efforts to restore the anadromous fisheries of the Trinity River. I have held that position since March of 2019.
2. I am writing this declaration to ensure that the Court is aware that the Winter Flow Project which is now underway is intended to be wholly beneficial to tribal trust resources and that there will in fact be harm to such resources if the recently initiated baseflow augmentation is halted.
3. For background on this proposal including its scientific rationale and its intended benefits to anadromous fisheries of the Trinity River, I ask the Court to reference my previous declarations of January 13 and January 25, 2023.
4. In order to implement the Trinity Management Council's recommendation that the Department of the Interior implement the Winter Flow Project as a component of the water year 2023 flow schedule, Reclamation began increasing base flows out of Lewiston Dam on February 15, 2023. This water comes from the total water year 2023 restoration

allocation that will be determined by the California Department of Water Resources' April 1 Bulletin 120 forecast. The 60,000 acre-feet of water that is shifted earlier in the calendar year is specifically intended to achieve juvenile salmon habitat and growth objectives in both the winter period and in the late spring-early summer period. Modeling (summarized in Abel et al. 2022) indicates that the ROD objectives for the spring-summer period can not only still be achieved, but be achieved better, with this approach, which will result in the river reaching summer base flow earlier. There is no proposal to deviate from the long-standing 450 cubic foot per second summer baseflow, and thus the action will not change our ability to meet that baseflow's primary purpose of maintaining temperature targets for spring Chinook salmon during the summer period. In other words, the action results in no harm to the Hoopa Valley Tribe or its fisheries.

5. Now that winter baseflow augmentation has started, it is imperative that they continue through the spring restoration release that begins April 15. Spawning by Upper Klamath/Trinity River steelhead has already begun and will continue through early spring. A reduction in flows now would leave many redds (nests) high and dry, significantly undercutting the reproductive success of that species which is key to both tribal and non-tribal harvest and sport fisheries. It is also a species which resource agencies have been endeavoring to keep off of the endangered species list in the face of sharp declines from historical numbers. We certainly do not want to endanger this population by reducing the flows that were intended to benefit it and all other wildlife of the Trinity River. In other words, stopping winter flows now would be significantly more harmful to fish than had the flows never been started.
6. As described in previous filings with the Court, the winter flow proposal is a single-year action being undertaken under the 2000 Trinity River Mainstem Fishery Restoration ROD's adaptive management mandate. The Restoration Program and its scientists will review the scientific data from the implementation of Phase Two of the Winter Flow Project (we were unable to implement Phase One because of the Tribe's preliminary injunction motion), and will make future recommendations to the Trinity Management Council about winter flows based on the best available science.

I declare, under penalty of perjury pursuant to 28 U.S.C. 1746, that the foregoing is to the best of my knowledge true and correct.

Executed this 15th day of February, 2023 in Trinity County of California



Dr. Michael Dixon

Reference:

Abel, C. E., K. De Juilio, K. T. Lindke, S. Naman, and E. E. Thorn. 2022. Trinity River winter flow project. Report for the Trinity River Restoration Program (TRRP). TRRP, Weaverville, California. Available: <https://www.trrp.net/library/document?id=2566>.